

“TO BE HELD BY HER IN HER OWN RIGHT”: Feminism and the Donation Land Claim Act in Washington

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Abstract

The Donation Land Claim Act of 1850 is regarded as a feminist milestone in the history of the United States' Westward Expansion, granting white men “six hundred and forty acres, one half to himself and the other half to his wife, to be held in her own right.” The Act resulted in 302,543 acres (0.7%) of land in Washington State (then part of Oregon Territory) being claimed by Americans, most prior to treaties with Indigenous peoples. The Donation Land Claim Act advanced American colonization of the region by encouraging marriage and migration to Oregon Territory. This poster presents summary data of Donation Land Claims across Washington State, explores American women's property rights in the early days of Oregon Territory, and examines whether young women were persuaded to marry to increase land grants.

Washington Women Homesteaders Project

The Washington Women Homesteaders project aims to develop a historic context for Washington settlement history that includes female homesteaders. Previous studies (Mathews 2019, 2020, 2021, 2022, 2023A, 2023B) have established that the homesteading history of Washington has unique local variations from that of the West in general.

Methods

Summary statistics for this research were collected by browsing Donation Land Claim Act (9 Stat. 496) records in the [glorecords.blm.gov](https://www.glorecords.blm.gov) land patents database (Bureau of Land Management 2023). Records were browsed and tallied by county. Research into couple's marriage dates was done through primary sources such as census and marriage records, as well as secondary sources such as pioneer records, biographies, and obituaries.

Women's Property Rights in Oregon Territory

During the early years of the first wave of feminism, states were grappling with married women's property rights, and coverture laws barred married women from voting or having legal rights to property at the time. The 1850 Donation Land Claim Act was enacted only two years after the Seneca Falls Convention, the first women's rights convention in the United States. Although the Act stated that half of the granted acres were to be “held in her own right” the Act did not grant independent legal rights to women, meaning that although husbands were supposed to consult wives on legal matters of their property, the husband managed the property. Women did not have independent control of their property in Oregon until 1878 when Oregon passed the Married Women's Property Act, which allowed married women to own property and conduct business without their husband. In 1889 the Washington State constitution gave women “equality of rights and responsibility under the law.”

Donation Land Claim Patents by County

Donation Land Claim (DLC) Act patent data summarizes American settlement patterns in the years leading up to American treaties with Indigenous peoples, as claims were established from 1846-1855. This history is significant in the history of Washington State and the United States, whether there were few or many claims in a county, for its association with the colonization of Oregon Territory/Washington State and Westward Expansion.

A total of 1,026 DLC patents were issued in Washington, which is just 14% of the DLC patents issued in Oregon Territory. Very few claims were patented in eastern Washington, and only 0.7% of all Washington lands were claimed through the DLC process (Table 1). DLCs were clustered between Pierce and Clark Counties, the sites of the Hudson Bay Company's Fort Nisqually (established 1833) and Fort Vancouver (established 1825) (Figure 1).

Figure 1. Map of Washington Donation Land Patents by County.

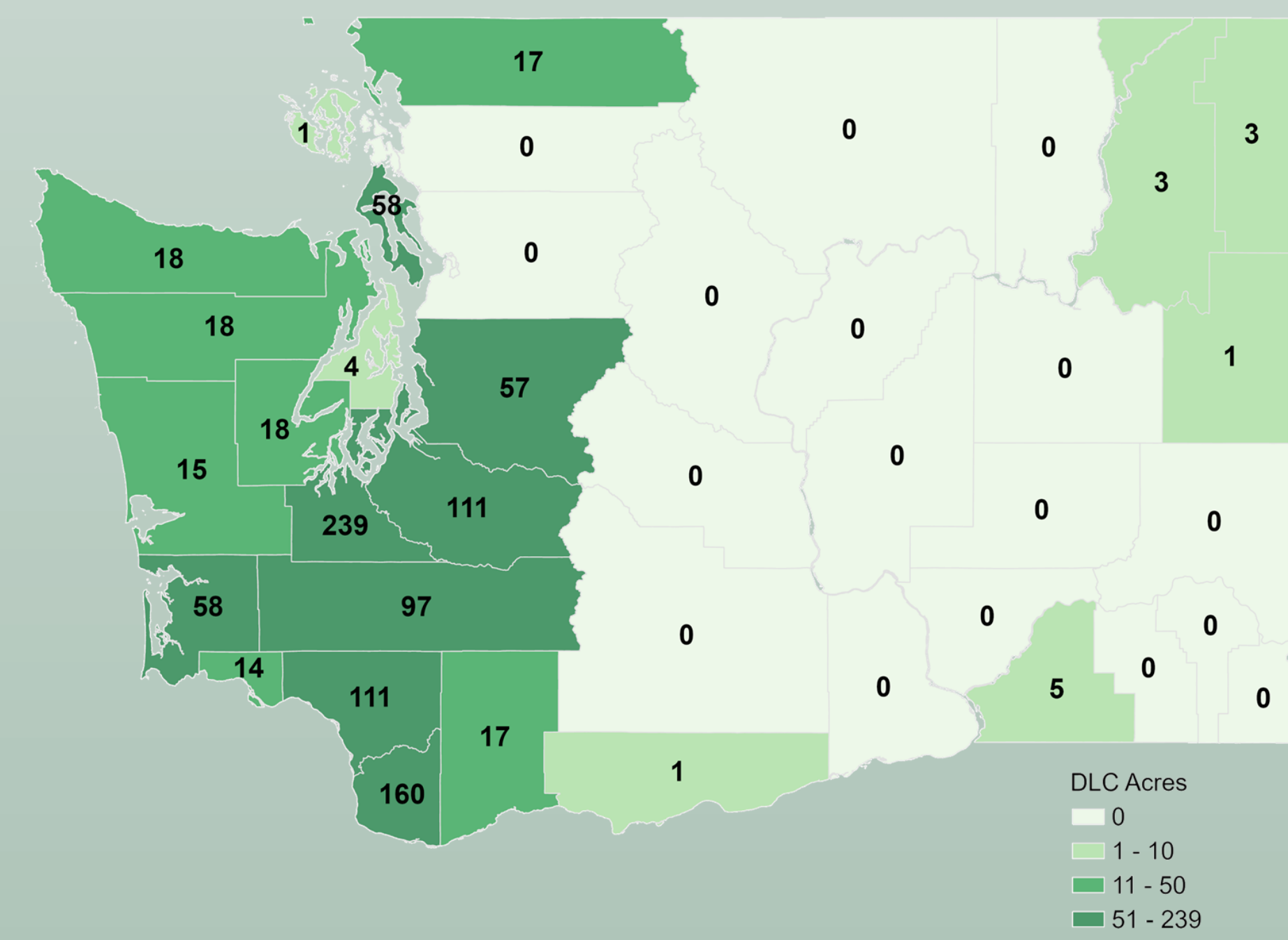


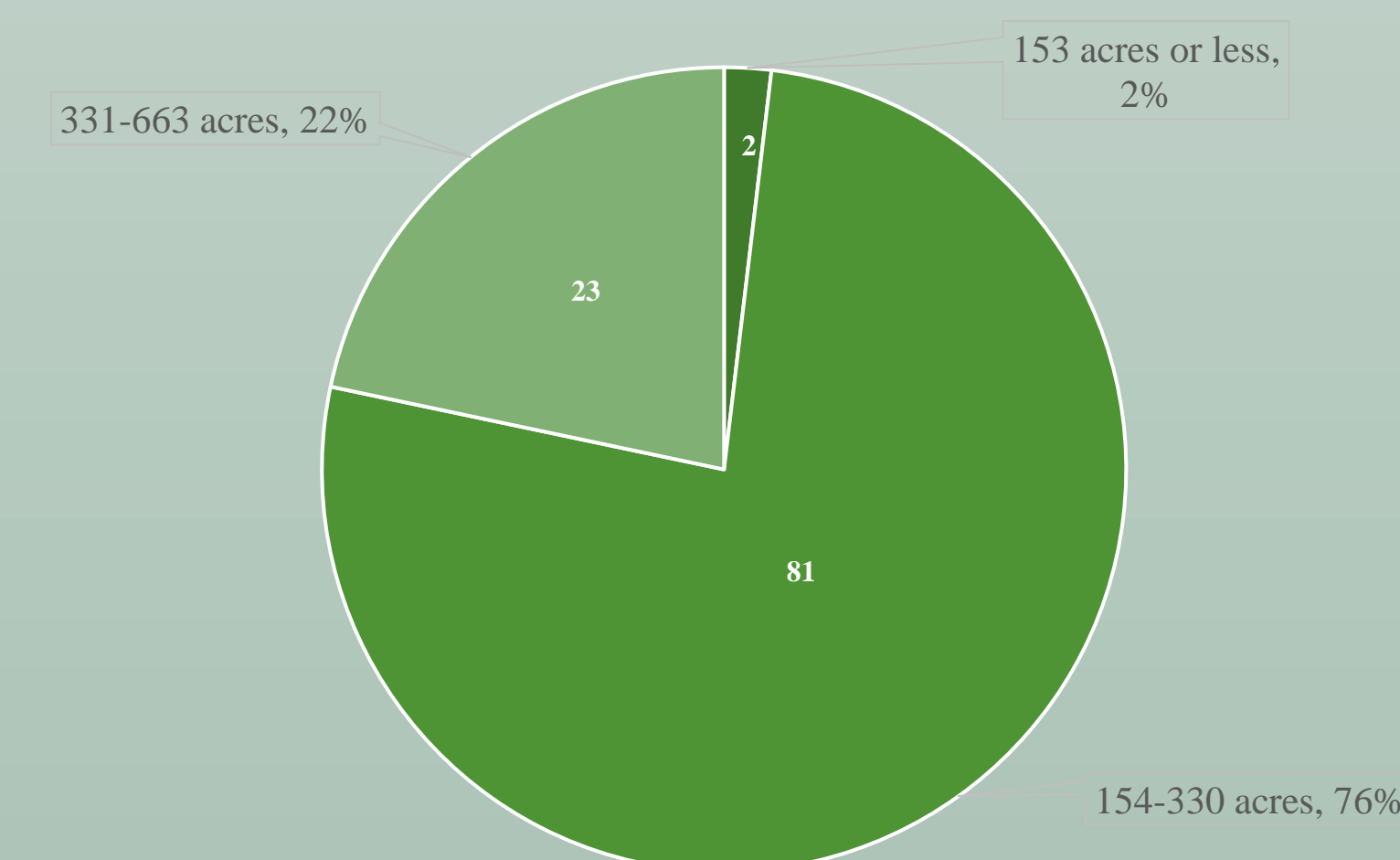
Table 1. Washington Donation Land Claim Patents by County.

County	Couple DLC Patents	All DLC Patents	Couple DLC Patents %	Couple DLC Acres	Average Couple DLC Acres	All DLC Acres	% of Land
Western Washington	521	1,013	51.4%	195,172	375	296,690	1.87%
North Puget Sound	46	133	34.6%	16,569	360	32,932	0.60%
Whatcom	5	17	29.4%	1,444	289	3,633	2.69%
San Juan	0	1	0%	0	0	160	0.14%
Island	22	58	37.9%	8,402	382	15,403	11.52%
King	19	57	33.3%	6,723	354	13,736	1.01%
South Puget Sound	174	372	46.8%	64,006	368	105,570	4.40%
Pierce	53	111	47.8%	19,498	368	31,421	2.94%
Thurston	113	239	47.3%	41,355	366	68,391	14.8%
Mason	6	18	33.3%	2,540	423	4,888	7.96%
Kitsap	2	4	50%	613	307	870	3.44%
Washington Coast	46	109	42.2%	19,592	426	32,213	0.79%
Clallam	1	18	5.6%	320	320	4,028	0.36%
Jefferson	8	18	44.4%	3,910	489	5,819	0.50%
Grays Harbor	9	15	60%	3,565	396	4,680	0.38%
Pacific	28	58	48.3%	11,797	421	17,686	2.96%
Southwest Washington	255	399	63.9%	95,005	373	125,975	3.23%
Wahkiakum	6	14	42.9%	2,888	481	4,189	2.48%
Lewis	60	97	61.9%	27,065	451	35,226	2.29%
Cowlitz	72	111	64.9%	26,399	367	34,783	4.77%
Clark	106	160	66.3%	34,249	323	45,591	11.33%
Skamania	11	17	64.7%	4,404	400	6,186	5.84%
Eastern Washington	11	13	84.6%	5,525	502	5,853	0.02%
Okanogan Highlands	4	6	71.4%	1,363	341	1,691	0.02%
Stevens	3	3	100%	959	320	959	0.06%
Pend Oreille	1	3	66.7%	404	404	732	0.08%
Channeled Scablands	1	1	100%	640	640	640	0.01%
Spokane	1	1	100%	640	640	640	0.06%
Blue Mountains	5	5	100%	3203	641	3203	0.12%
Walla Walla	5	5	100%	3203	641	3203	0.39%
Central Washington	1	1	100%	319	319	319	0.00%
Klickitat	1	1	100%	319	319	319	0.00%
All	532	1,026	51.9%	200,697	2,029	302,543	0.71%

Size of Donation Land Claims in Thurston County

Since couples could claim more land than single men, it is no surprise that many of the Donation Land Claim (DLC) Act lands (51.9% of patents) were granted to couples, many of whom had married after the DLC was enacted. Although some early American settlers married Indigenous women, these women were not United States citizens until 1888 (25 U.S. Code § 182). Only 104 families in Washington were granted more than 600 acres for establishing claims by 1850. In Thurston County couples received between 61 and 663 acres, and on average they received 369 acres. Only 22% (n=23) of couples received a grant of more than 320 acres. Of the couples who married in 1850-1851, the average claim was 405 acres and only 3 couples (27%) received more than 320 acres suggesting there was no great rush of marriages to maximize claims that year.

Figure 2. Thurston County DLC Couple Patents, Acres



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PDF copy and references available:
AntiquityConsulting.com



“Or if he shall become married within one year...”: The Influence of the Donation Land Claim Act on Marriage

The mean first marriage age for Euro-American women in the United States in 1860 was 22.8. Although studies are sparse, it is thought that Euro-American men and women who settled in newly colonized areas married younger because of the availability of resources and the need for collective labor on farms. The Donation Land Claim (DLC) Act encouraged land claimants to immigrate and marry, particularly between December 1850 and November 1851 when 640 acres of land were available to married couples (versus 320 acres between 1852 and 1855). Historians often note that marriages spiked during this year, but were newly married couples the biggest beneficiaries of this Act?

Thurston County, the site of the earliest American land claims in Washington and the county with the most DLC patents, was selected as a study area for analyzing whether the DLC Act influenced marriage. In Thurston County 113 couples received DLC patents (47% of 239 patents), but 7 couples were excluded from this analysis after research could not provide enough details on their marriages. Most (71%) of the Thurston DLC couples were married prior to 1850, before immigrating to Oregon Territory (Figure 3). Emigrant parties often had kinship relationships, and in many instances middle aged couples and their adult children immigrated to an area together, partially explaining the multimodal distribution of marriage years (Figure 4). Between 1850 and 1851, the last opportunity for couples to claim a total of 640 acres, 11 couples (10%) were married. Although 1851 was one of the most frequent marriage years of these couples, it is within a trend of young couples moving to Washington. An additional 20 couples (19%) married between 1852 and 1855 (the last year to claim a DLC).

The average marriage age of DLC wives in Thurston County was 21, and their age range was 14-38 (Figure 5). The average marriage age of the 1850-1851 brides was 21.4, and the average of 1852-1855 brides was 20.2, indicating there was no substantial difference in marriage age between cohorts but marriage ages were slightly lower in the last three years of the DLC.

Figure 3. Thurston County DLC Patents, Marriage Year

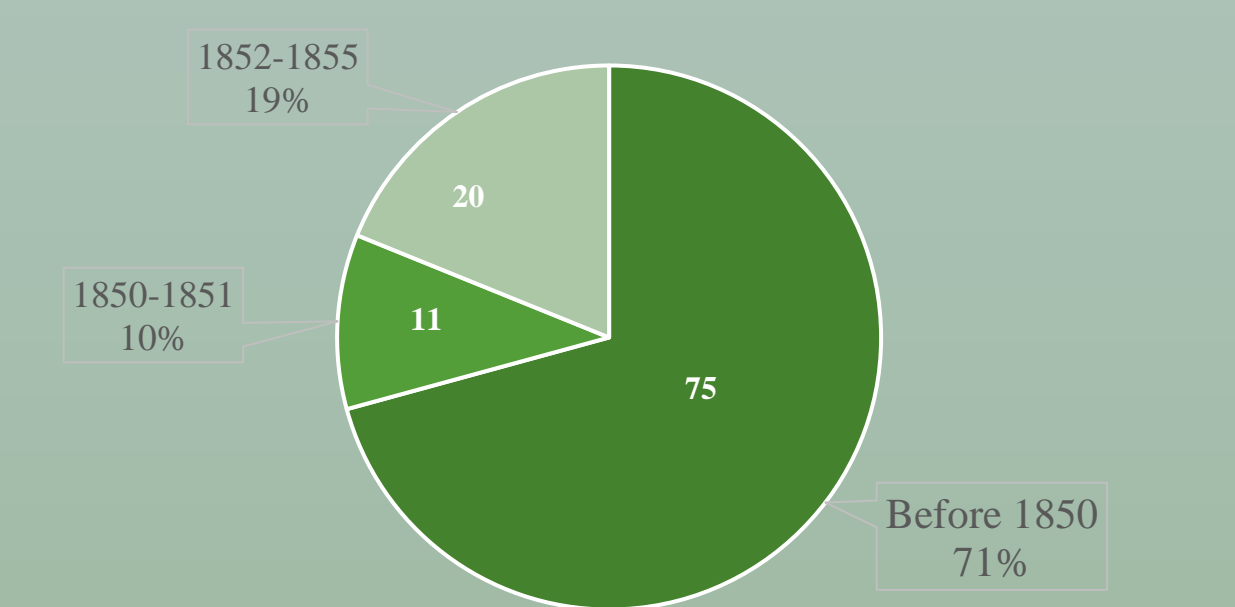


Figure 4. Average Age of Thurston County DLC Wives

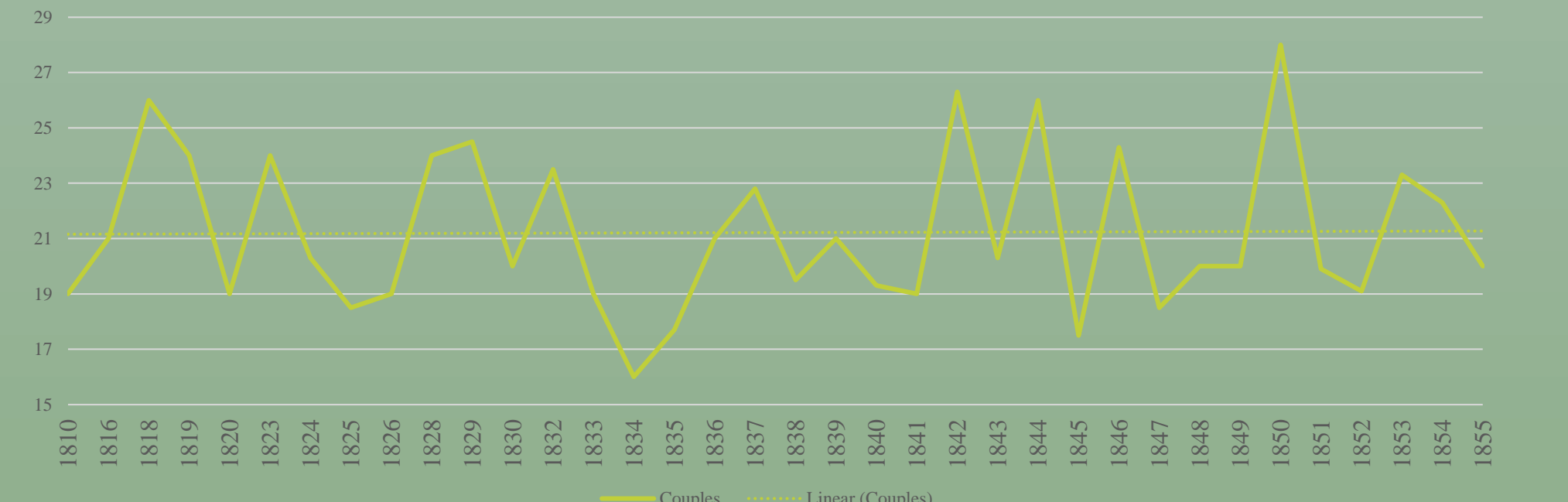


Figure 5. Thurston County DLC Couples Marriage Year

